

**DIVISION OF CHILD AND FAMILY
SERVICES TREATMENT PLANS AND
REUNIFICATION SERVICES**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Rebecca D. Lockhart

This act modifies the Human Services Code and the Judicial Code. The act amends treatment plan and reunification services code provisions to allow for, if requested by a parent, a guardian, or the child, the involvement of a clergy member or a mental health therapist selected by a parent, a guardian, or the child, including a mental health therapist who is sponsored or employed by, or a member of, the religion with which the child is affiliated. The act provides that a clergy member or mental health therapist requested by any person other than the custodial parent or guardian must be approved by the custodial parent or guardian.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

62A-4a-205, as last amended by Chapter 255, Laws of Utah 2001

78-3a-311, as last amended by Chapters 21 and 153, Laws of Utah 2001

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **62A-4a-205** is amended to read:

62A-4a-205. Treatment plans.

(1) No more than 45 days after a child enters the temporary custody of the division, the child's treatment plan shall be finalized.

(2) The division shall use an interdisciplinary team approach in developing each treatment plan. An interdisciplinary team shall include, but is not limited to, representatives from mental health, education, and, where appropriate, a representative of law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's



treatment plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) where appropriate, the child's stepparent.

(b) In relation to all information considered by the division in developing a treatment plan, additional weight and attention shall be given to the input of the child's natural and foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).

(4) A copy of the treatment plan shall be provided to the guardian ad litem, and to the child's natural parents and foster parents immediately upon completion, or as soon as is reasonably possible thereafter.

(5) Each treatment plan shall specifically provide for the safety of the child, in accordance with federal law, and clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child.

(6) The plan shall set forth, with specificity, at least the following:

(a) the reason the child entered Division of Child and Family Services custody, and documentation of the reasonable efforts made to prevent placement, or documentation of the emergency situation that existed and that prevented reasonable efforts;

(b) the primary permanency goal for the child and the reason for selection of that goal;

(c) the concurrent permanency goal for the child and the reason for the selection of that goal;

(d) if the plan is for the child to return to his family, specifically what the parents must do in order to enable the child to be returned home, specifically how those requirements may be accomplished, and how those requirements will be measured;

(e) the specific services needed to reduce the problems that necessitated placement in the division's custody, and who will provide for and be responsible for case management;

(f) a parent-time schedule between the natural parent and the child;

(g) the health care to be provided to the child, and the mental health care to be provided to address any known or diagnosed mental health needs of the child. If residential treatment, rather than a foster home, is the proposed placement, a specialized assessment of the child's health needs shall be conducted, including an assessment of mental illness and behavior and conduct disorders;

59 and

60 (h) social summaries that include case history information pertinent to case planning.

61 (7) (a) Each treatment plan shall be specific to each child and his family, rather than
62 general. The division shall train its workers to develop treatment plans that comply with federal
63 mandates and the specific needs of the particular child and his family.

64 (b) All treatment plans and expectations shall be individualized and contain specific time
65 frames.

66 (c) Treatment plans shall address problems that keep children in placement and keep them
67 from achieving permanence in their lives.

68 (d) The child's natural parents, foster parents, and where appropriate, stepparents, shall be
69 kept informed of and supported to participate in important meetings and procedures related to the
70 child's placement.

71 (8) With regard to a child who is three years of age or younger, if the goal is not to return
72 the child home, the permanency plan for that child shall be adoption unless there are documented
73 extenuating circumstances that justify long-term foster care or guardianship.

74 (9) A treatment plan may include, if requested by a parent, a guardian, or the child,
75 counseling with:

76 (a) a member of the clergy of the religion with which the child or the child's custodial
77 parent or guardian is affiliated; and

78 (b) a mental health therapist, as defined in Section 58-60-102, selected by a parent, a
79 guardian, or the child, including a mental health therapist who is sponsored or employed by, or a
80 member of, the religion with which the child or the child's custodial parent or guardian is affiliated.

81 (10) A member of the clergy or mental health therapist requested by any person other than
82 the custodial parent or guardian of the child under Subsection (9) must be approved by the
83 custodial parent or guardian of the child.

84 Section 2. Section **78-3a-311** is amended to read:

85 **78-3a-311. Dispositional hearing -- Reunification services -- Exceptions.**

86 (1) The court may make any of the dispositions described in Section 78-3a-118, place the
87 child in the custody or guardianship of any individual or public or private entity or agency, order
88 protective supervision, family preservation, medical or mental health treatment, or other services.

89 (2) (a) (i) Whenever the court orders continued removal at the dispositional hearing, and

that the minor remain in the custody of the Division of Child and Family Services, it shall first establish a primary permanency goal for the minor and determine whether, in view of the primary permanency goal, reunification services are appropriate for the child and the child's family, pursuant to Subsection (3).

(ii) When the court determines that reunification services are appropriate for the child and the child's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(iii) In cases where obvious sexual abuse, abandonment, or serious physical abuse or neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents. In all cases, the child's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(b) (i) In addition to the primary permanency goal, the court shall establish a concurrent permanency goal. The concurrent permanency goal shall include a representative list of the conditions under which the primary permanency goal will be abandoned in favor of the concurrent permanency goal and an explanation of the effect of abandoning or modifying the primary permanency goal.

(ii) A permanency hearing shall be conducted in accordance with Subsection 78-3a-312(1)(b) within 30 days if something other than reunification is initially established as a child's primary permanency goal.

(iii) The court may amend a child's primary permanency goal before the establishment of a final permanency plan under Section 78-3a-312. The court is not limited to the terms of the concurrent permanency goal in the event that the primary permanency goal is abandoned. If, at anytime, the court determines that reunification is no longer a child's primary permanency goal, the court shall conduct a permanency hearing in accordance with Section 78-3a-312 within the earlier of 30 days of the court's determination or 12 months from the original removal of the child.

(c) If the court determines that reunification services are appropriate, it shall order that the division make reasonable efforts to provide services to the minor and his parent for the purpose of facilitating reunification of the family, for a specified period of time. In providing those services, the child's health, safety, and welfare shall be the division's paramount concern, and the

court shall so order. The time period for reunification services may not exceed 12 months from the date that the child was initially removed from his home. Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services. If reunification services have been ordered, the court may terminate those services at any time. If, at any time, continuation of reasonable efforts to reunify a child is determined to be inconsistent with the final permanency plan for the child established pursuant to Subsection 78-3a-312, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(d) Any physical custody of the minor by the parent or a relative during the period described in Subsection (2)(c) does not interrupt the running of the period.

(e) (i) If reunification services have been ordered, a permanency hearing shall be conducted by the court in accordance with Section 78-3a-312 at the expiration of the time period for reunification services. The permanency hearing shall be held no later than 12 months after the original removal of the child.

(ii) If reunification services have not been ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78-3a-312.

(f) With regard to a child who is 36 months of age or younger at the time the child is initially removed from the home, the court shall:

(i) hold a permanency hearing eight months after the date of the initial removal, pursuant to Section 78-3a-312; and

(ii) order the discontinuance of those services after eight months from the initial removal of the child from the home if the parent or parents have not made substantial efforts to comply with the treatment plan.

(g) With regard to a child in the custody of the division whose parent or parents have been ordered to receive reunification services but who have abandoned that child for a period of six months since the date that reunification services were ordered, the court shall terminate reunification services, and the division shall petition the court for termination of parental rights.

(3) (a) Because of the state's interest in and responsibility to protect and provide permanency for children who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited. The court may determine that efforts to reunify a child with his family are not reasonable or appropriate, based on the individual

152 circumstances, and that reunification services should not be provided. In determining "reasonable
153 efforts" to be made with respect to a child, and in making "reasonable efforts," the child's health,
154 safety, and welfare shall be the paramount concern.

155 (b) There is a presumption that reunification services should not be provided to a parent
156 if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

157 (i) the whereabouts of the parents are unknown, based upon a verified affidavit indicating
158 that a reasonably diligent search has failed to locate the parent;

159 (ii) the parent is suffering from a mental illness of such magnitude that it renders him
160 incapable of utilizing reunification services; that finding shall be based on competent evidence
161 from mental health professionals establishing that, even with the provision of services, the parent
162 is unlikely to be capable of adequately caring for the child within 12 months;

163 (iii) the minor has been previously adjudicated as an abused child due to physical or sexual
164 abuse, that following the adjudication the child was removed from the custody of his parent, was
165 subsequently returned to the custody of that parent, and the minor is being removed due to
166 additional physical or sexual abuse;

167 (iv) the parent has caused the death of another child through abuse or neglect or has
168 committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter
169 of a child or child abuse homicide;

170 (v) the minor has suffered severe abuse by the parent or by any person known by the
171 parent, if the parent knew or reasonably should have known that the person was abusing the minor;

172 (vi) the minor has been adjudicated an abused child as a result of severe abuse by the
173 parent, and the court finds that it would not benefit the child to pursue reunification services with
174 the offending parent;

175 (vii) the parent's rights have been terminated with regard to any other child;

176 (viii) the child has been removed from his home on at least two previous occasions and
177 reunification services were offered or provided to the family at those times; or

178 (ix) the parent has abandoned the child for a period of six months or longer; or

179 (x) any other circumstance that the court determines should preclude reunification efforts
180 or services.

181 (4) (a) Failure of the parent to respond to previous services or comply with any previous
182 treatment plan, the fact that the child was abused while the parent was under the influence of drugs

or alcohol, a past history of violent behavior, whether a parent continues to live with an individual who abused the child, any patterns of the parent's behavior that have exposed the child to repeated abuse, or testimony by a competent professional that the parent's behavior is unlikely to be successful, shall be considered in determining whether reunification services are appropriate.

(b) The court shall also consider whether the parent has expressed an interest in reunification with the child, in determining whether reunification services are appropriate.

(5) If reunification services are not ordered pursuant to Subsection (3)(a), and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court may order the division to provide reunification services. The time limits described in Subsection (2), however, are not tolled by the parent's absence.

(6) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for minors ten years of age or older, the minor's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services for an incarcerated parent are subject to the 12-month limitation imposed in Subsection (2). Reunification services for an institutionalized parent are subject to the 12-month limitation imposed in Subsection (2), unless the court determines that continued reunification services would be in the child's best interest.

(7) If, pursuant to Subsection (3)(b)(ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), or (x), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78-3a-312.

(8) (a) Reunification services may include, if requested by a parent, a guardian, or the child, counseling with:

(i) a member of the clergy of the religion with which the child or the child's custodial parent or guardian is affiliated; and

(ii) a mental health therapist, as defined in Section 58-60-102, selected by a parent, a guardian, or the child, including a mental health therapist who is sponsored or employed by, or a member of, the religion with which the child or the child's custodial parent or guardian is affiliated.

(b) A member of the clergy or mental health therapist requested by any person other than

214 the custodial parent or guardian of the child under Subsection (8)(a) must be approved by the
215 custodial parent or guardian of the child.

Legislative Review Note

as of 1-28-02 11:09 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel